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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,816	12/11/2003	Gerald B. Roberts	44171	5880
1609	7590	02/03/2005	EXAMINER	
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.			FISHMAN, MARINA	
1300 19TH STREET, N.W.				
SUITE 600			ART UNIT	PAPER NUMBER
WASHINGTON,, DC 20036			2832	

DATE MAILED: 02/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/732,816	ROBERTS, GERALD B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Marina Fishman	2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-20 is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 6-9 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***General status***

1. This is a Final Action on the Merits. Claims 1 - 20 are pending in the case and are being examined.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, 6 – 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paw et al. [US 5,821,486].

Paw et al. disclose a resistance assembly comprising:

- a base [14, 20, 56 84];
- a switch assembly [12] mounted on said base;
- a lever [50] connected to the switch assembly to move the switch assembly between opened and closed positions;
- a pin [55] having a first and a second ends, the first end being connected to the lever; and
- a resistance member [82] connected to the second end of the pin, the resistance member contacting the base when the lever rotates to move the switch assembly between open or closed positions thereby

preventing accidental movement of the switch assembly [column 3, lines 37-55 and column 4, lines 7-11].

Paw et al. disclose the claimed invention except for a portion [84] of the base is flexible and the pin [82] acting as resistance member is rigid. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the portion of the base rigid and the resistance member flexible, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. [In re Einstein, 8 USPQ 167.]

Regarding claim 4, Paw et al. disclose base substantially U-shaped base [element 20].

Regarding Claim 6, Paw et al. disclose the instant claimed invention except for "said resistance member is a roller". The use of roller is well known in the art, and it would have been obvious to use a roller at the end of pin, so as to obtain better contact with element [84].

Regarding claim 7, Paw et al. disclose the pin [55] made from rigid material.

Regarding Claims 8 and 9, Paw et al. disclose the instant claimed invention except for material for the pin being thermoplastic material or delrin. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select an appropriate material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. [In re Leshin, 125 USPQ 416.]

***Allowable Subject Matter***

4. Claims 10-20 are allowed.
5. Claims 2, 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The following is an examiner's statement of reasons for allowance:

Claim 2, recites "said bearing assembly capable of being moved radially relative to an axis of rotation", claim 3, recites "said bearing assembly is made of a flexibly material", claim 5, recites "a first leg of said u-shaped base prevents movement of said resistance member thereby", all define over the art of record.

In Claim 10, the combination of limitations including "a lever connected to said at lest switch assembly, a shaft connecting each of the levers, pin connected to one of the levers and resistance member connected to second end of the pin, the resistance member contacting the base" define the claim over the art of record.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1 - 9 have been considered but are moot in view of the new ground(s) of rejection.

The rejections in the previous office action under 35 USC §112, second paragraph are withdrawn in view of Applicant's amendments.

The Applicant amended claim 1 and changed "a base" to "a rigid base" and "said roller" to "said resistance member". Claims 1, 4 and 7 are now being rejected under 35 USC § 103.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2832

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marina Fishman  
January 28, 2005

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LINCOLN DONOVAN  
PRIMARY EXAMINER  
GROUP 2100